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## 2005 Decisions

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## Opinions of the United States Court of Appeals for the Third Circuit

12-12-2005

## In Re: Corliss

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UNITED STATES COURT OF APPEALS  
FOR THE THIRD CIRCUIT

NO. 05-4394

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IN RE: JUSTIN M. CORLISS,

Petitioner

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On a Petition for Writ of Mandamus from the  
United States District Court for the  
Middle District of Pennsylvania  
(Related to M.D. Pa. Civ. No. 03-cv-02201)

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Submitted Under Rule 21, Fed. R. App. Pro.  
November 4, 2005

Before: CHIEF JUDGE SCIRICA, WEIS and GARTH, CIRCUIT JUDGES.  
Filed: December 12, 2005

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OPINION

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PER CURIAM.

Pro se petitioner Justin M. Corliss seeks a writ of mandamus to compel the United States District Court for the Middle District of Pennsylvania to act on his motions filed in his habeas corpus proceedings. Specifically, in May 2005, Corliss filed a motion to reconsider the District Court's April 26, 2005 order denying habeas relief, as well as a motion seeking the District Judge's recusal. Stating that the matters remained

unresolved, Corliss submitted a mandamus petition in September 2005.

Corliss's motion for reconsideration and recusal motion were pending at the time this mandamus petition was filed. However, on September 23, 2005, the District Court denied both motions. Thus, the matter before us is now moot. To the extent that Corliss seeks relief relating to the merits of the claims raised in his habeas petition, mandamus is not an alternative to an appeal. In re Chambers Dev. Co., 148 F.3d 214, 223 (3d Cir. 1998) ("a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal").

We note that Corliss refers to the mandamus action that he previously filed in this Court, docketed at C.A. No. 05-1895, in which he sought to compel the District Court to rule on his then-pending habeas petition. When that mandamus request became moot upon the District Court's denial of habeas relief, Corliss requested a refund of his filing fee. We denied the refund request in our May 31, 2005 order. In his current mandamus petition, Corliss again seeks reimbursement of the previously-paid filing fee. We again deny this request.

We will deny the petition for a writ of mandamus.